

## REMARKS

In the Office Action mailed March 6, 2007 claims 1-14 and 16-19 are currently pending. Claims 1-14 and 16-19 currently stand rejected under 35 U.S.C. § 101 because they are allegedly “not statutory.” Claims 1-19 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Jordan et al. (U.S. Patent No. 6,438,652) (“Jordan 652”) in view of Zisapel et al. (U.S. Patent No. 6,665,702) and further in view of Applicants Admitted Prior Art (page 2, of disclosure).

Applicants respectively traverse. After a careful review of the Office Action, Applicants’ claim clarifications, and the cited references, Applicants respectively request reconsideration in view of the following remarks.

### **I. CLAIM REJECTIONS UNDER 35 U.S.C. 101**

Claims 1-14 and 16-19 currently stand rejected under 35 U.S.C. § 101 because they are allegedly “not statutory.” Specifically, with respect to this rejection, the presently pending Office Action states: “The Office suggests amending the claim such that the claimed ‘weight’ is utilized in some way (i.e., distributing something according to the assigned weight).” March 6, 2007 Office Action at page 3. Applicants have revised these claims to utilize the claimed ‘weight.’ More specifically, and for example with respect to claim 1, Applicants have revised these claims to now expressly recite the step of “distributing a traffic load to one of the plurality of downstream proxies based in part on the weight of each of the downstream proxies.” The other independent claims contain similar limitations. As such, Applicants respectively request that these rejections be withdrawn.

### **II. CLAIM REJECTIONS UNDER 35 U.S.C. 103(a)**

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over

Jordan et al. (U.S. Patent No. 6,438,652) (“Jordan 652”) in view of Zisapel et al. (U.S. Patent No. 6,665,702) (“Zisapel 702”) and further in view of the purported “Applicants Admitted Prior Art (page 2, of disclosure).” Applicants respectively traverse.

A. Applicant’s Presently Claimed Invention

This present invention relates to load balancing. More specifically, it relates to using a proxy server to provide load balancing. (Applicant’s Specification at p. 2, lines 4-7).

As Applicants previously explained, the system and method of the present invention advantageously provides a system for load balancing. Specifically, a control node may be provided that balances the traffic load sent to proxies in a network. The control node may maintain information that assigns the traffic load to the proxies.

In one example of the present invention, a control node is coupled to a plurality of proxies. The control node may receive information from the plurality of proxies, maintain a list of all proxies, and assigns a weight to each of the proxies in the list, the weight based upon information received from the proxies. The control node may receive information from the plurality of proxies, maintain a list of all proxies, and assigns a weight to each of the proxies in the list, the weight based upon information received from the proxies. The control node may receive a request and use the weights to assign a proxy. The request may then be forwarded to the selected proxy by the control node. (Applicant’s Specification at p. 3, lines 4-13).

Applicants provide Figure 1 which is a diagram illustrating a preferred embodiment of the system for load balancing in accordance with the present invention. As Applicants describe,

Referring now to Figure 1, a system includes a user agent 102, a first proxy 104, a redirect server 106, a network 108, a control node 110 (including a user agent profile database 111), a location server 112, a second proxy 114, third proxy 116, fourth proxy 118, a network

120, and a user agent 122.

The user agent 102 is coupled to the proxy 104. The proxy 104 is coupled to the network 108 and the redirect server 106. The network 108 is coupled to the control node 110. The control node 110 is coupled to the proxies 114, 116, 118, and the location server 112. The proxies 114, 116, and 118 are coupled to the network 120. The network 120 is coupled to the user agent 122.

The functions of the user agents 102 and 122 may be implemented by computer instructions stored in memory and executed by a processor. A user agent (caller) may transmit messages to another agent (callee). The messages may be of any type or format.

The functions of the proxies 104, 114, 116, and 118 may be implemented using computer instructions stored in a memory and executed by a processor. The proxies 104, 114, 116, and 118 may be stateless or stateful. Also, the proxies 104, 114, 116, and 118 may stay in the path of a call for the duration of a session or may be out of the path. In addition, the proxies may implement SIP or any other type of protocol.

Any of the proxies 104, 114, 116, or 118 may route messages to other proxies or other devices. A downstream proxy (e.g., proxies 114, 116, or 118) may receive messages from other proxies (e.g., upstream proxies) or other devices (e.g., the SIPCN).

The functions of the redirect server 106 may be implemented using computer instructions stored in a memory and executed by a processor. The redirect server 106 includes information needed to route calls from the caller to the callee across the network 108.

The networks 108 and 120 may be any type of network used to transmit any type of information. In one example, the networks 108 and 120 may be IP networks, which transmit packets of information. Other types of networks are possible.

The functions of the control node 110 may be implemented using computer instructions stored in a memory and executed by a processor. A list of all downstream proxies is kept on the control node. Each of the proxies may be weighted using the information available to the control node 110. Once the weighting is performed, messages may be assigned to proxies based upon the weighted values.

Weighting may be done by any number of methods. For example, weighting may be done by tracking the traffic load of the proxies; by determining the load on the proxies by tracking the delay in the responses of the proxies; or by monitoring the load on the proxies by querying specific processes of the proxies. Other types of weighting algorithms may also be used. (Applicant's Specification at p. 5, line 3 – p. 6, line 19).

As Applicants also explain in their application, the Voice over Internet Protocol (VoIP) is a technique where voice information is packetized and transmitted over a network. VoIP uses signaling to establish, modify, and terminate multimedia events. For example, the Session Initiation Protocol (SIP) and H.323 represent two methods whereby signaling may be provided. SIP is an application-layer call control protocol for VoIP and other media applications. (Applicants' Specification at p.2 lines 6 – 13).

The presently pending independent claims are generally directed to such methods and systems for load balancing using Voice over Internet Protocol (VoIP) information received from proxies. Such proxies implement the SIP protocol. For example, independent claim 1 expressly recites a method of load balancing comprising the step of "receiving Voice over Internet Protocol (VoIP) information from a plurality of downstream proxies, the VoIP information including a delay time between the control node and the downstream proxies," and that "the proxies implement the SIP protocol." Independent claim 1 has also now been amended to expressly

recite the step of: “distributing a traffic load to one of the plurality of downstream proxies based in part on the weight of each of the downstream proxies.” The remaining independent claims contain similar limitations.

B. The Cited References Do Not Teach or Suggest Applicants’ Presently Claimed Invention

Jordan 652 fails to teach, either expressly or inherently, such a “method of load balancing in an upstream proxy” using VoIP information or messages from a plurality of proxies and the step of “distributing a traffic load to one of the plurality of downstream proxies based in part on the weight of each of the downstream proxies.” For example, Jordan ‘652 appears to teach a load monitor for each cache server 150. According to Jordan ‘652, Figs. 2a-2b provide examples of data formats of two tables maintained by the load monitor. As depicted, the tables include a load table 102, and a caching table. (Jordan ‘652, Col. 6 lines 6-10).

Therefore, as is illustrated in Figure 1b, in the system as described and taught by Jordan ‘652, each cache server 150 comprises a load monitor, load tables and cache information (table or hash) (Jordan Figure 1b). Indeed, Jordan ‘652 describes that “Fig. 1b shows another example of a system in a block diagram form employing a collection of proxy cache servers, where a distributed load balancing logic according to the present invention can be applied.” (Jordan ‘652 Col. 5 lines 15-17). Consequently, Jordan ‘652 does not teach or suggest using VoIP information for load balancing let alone using VoIP information received from proxies for load balancing and for “distributing a traffic load to one of the plurality of downstream proxies based in part on the weight of each of the downstream proxies.”

Similarly, Zisapel ‘702 fails to teach such a load balancing methods. Rather, Zisapel ‘702 merely appears to teach “load balancing requests among redundant network servers in

different geographical locations.” (Zisapel ‘702, Col. 1, lines 11-14). Zisapel ‘702 does not teach using VoIP information or messages let alone VoIP information or messages from a plurality of downstream proxies and then “distributing a traffic load to one of the plurality of downstream proxies based in part on the weight of each of the downstream proxies.” Consequently, Zisapel ‘702 also does not teach or suggest such proxies implementing the SIP protocol.

Consequently, the presently pending independent claims 1, 6, 8, 10, 11, 13, 18, and 19 are allowable for at least all of the reasons stated above. The remaining pending claims are all dependent on these allowable independent claims and are therefore allowable for at least the reasons stated above.

### **III. SUMMARY**

Applicants respectfully submit that, in view of the remarks above, the present application is in condition for allowance and solicit action to that end.

If there are any matters that may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact Applicants' undersigned representative at (312) 913-0001.

Respectfully submitted,

**McDonnell Boehnen Hulbert & Berghoff LLP**

Date: August 31, 2007

By: \_\_\_\_\_



Thomas E. Wettermann

Reg. No. 41,523